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Fifty-fifth session
Item 7 of the provisional agenda

THE RIGHT TO DEVELOPMENT

Written statement submitted by the American Association of Jurists, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council Resolution 1996/31.

[25 December 1998]

GE.99-10460 (EXT)

1. On 7 November 1998, the American Association of Jurists issued the following

STATEMENT ON CENTRAL AMERICA

In the face of the disaster that devastated Central America as a result of Hurricane Mitch, causing the death, disappearance or forced displacement of tens of thousands of persons who lost all their possessions, as well as the destruction of most of the region's production installations, the American Association of Jurists expresses its total solidarity with the peoples affected and urges that, in fulfilment of the obligations of humanitarianism and international co-operation imposed by the Charter of the United Nations, article 1, paragraph 3, and the International Covenant on Economic, Social and Cultural Rights, article 1, paragraph 2:

1) International aid be raised to the maximum level and be channelled through the United Nations (Charter, article 1, paragraph 4).

2) A National Commission for Reconstruction be set up in each country affected to ensure transparent management and that those commissions be composed of the Executive and Legislative Branches and workers' organizations, campesino communities, entrepreneurs, academics and other grassroots organizations in order to direct the reconstruction and monitor and channel international aid.

3) The industrialized countries make long-term interest-free loans for reconstruction, since it is their large public-works firms that will most likely profit, as is their wont, from contracts for the works to be done.

4) The foreign debt of the affected countries, El Salvador, Guatemala, Honduras and Nicaragua, be written off.

Álvaro Ramírez President	Vanessa Ramos Secretary-General	Beinusz Szmukler Chairperson, Advisory Board

2. The enormous social consequences of the natural disaster that devastated the countries of Central America once more demonstrated the poorer countries' utter vulnerability to that type of phenomenon, which is naturally linked to the issue of the exercise of the right to development, interpreted as embracing human development, which includes adequate public services, facilities and housing for all inhabitants.

3. The American Association of Jurists has brought into sharp relief the question of foreign debt because, by and large, it is one of the major obstacles to the exercise of the right to development encountered by poor countries.

4. To cite a few examples: between 1990 and 1993, Zambia spent US$ 37 million on primary education, while it paid its international creditors US$ 1.3 billion

over the same period; Uganda spends US$ 1 per capita on health and US$ 9 on payment of its foreign debt; Ghana spends five times more on payment of its foreign debt than it does on its social programmes (The Nation, 10 March 1997).

5. However, it is the Central American countries hurt by the hurricane which can most reasonably invoke the principle of "rebus sic stantibus", which means that the obligation is extinguished and the debtor released from it when fulfilment becomes impossible, exceedingly onerous or essentially different from when the debt was contracted.

6. Furthermore, the origin of the debt must be studied in each individual case, for it is unfair for a country's entire population to be liable for a debt contracted by specific persons (real or imaginary), as has been occurring for some time now in many countries - developed and underdeveloped alike - in application of the principle of privatization of profits and "socialization" of debts. The most recent cases are Mexico, which recently "socialized" a US$ 65 million debt contracted by speculators who have their profits safely hoarded away, and Japan, which "nationalizes" private banks on the verge of collapse.

7. In any event, the debt will never be paid (it continues to increase despite the successive Baker, Brady and other plans) and keeping it alive only imposes on debtor countries a globalization policy that increasingly concentrates wealth on a tiny segment of society worldwide, favouring certain geographical regions.

8. History has shown that countries that have repaid their foreign debt are the exception rather than the rule. As long ago as 1924, Keynes wrote that so numerous, so nearly universal, were the foreign Governments that had defaulted on their external debt, that it was easier to point out those that had not defaulted than those who had. Keynes went on to say that among the countries that had technically defaulted some sought loans abroad in their own currency and allowed that currency to depreciate to less than half its nominal value and sometimes even to a tiny fraction. They include Belgium, France, Italy and Germany (Keynes, Defaults by Foreign Governments). John Kenneth Galbraith (A Journey through Economic Time, 1994) wrote that in the aftermath of the First World War the victors decided that Germany should pay the war debts, including those contracted by France and Great Britain with the United States. With the great Depression of 1929, there was an initial moratorium, and a conference decided in 1932 to reduce the debt substantially. When Hitler ceased repayment of the debt once and for all, France and Great Britain decided that they would not repay theirs to the United States. At present the United States, in addition to exercising "world leadership", is the most indebted country in the world, but this does not make its leaders rest less easy.

9. Weak, poor countries have sound economic and legal reasons for defaulting on their debts, in addition to the example shown them by the rich and powerful.

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THE RIGHT TO DEVELOPMENT

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The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council Resolution 1996/31.

[25 December 1998]

GE.99-10464 (EXT)

Human development and democratic society:
two indissociable concepts

1. The exercise of the right to development cannot be dissociated from the existence of a democratic society, in which all its members, the human beings who "are born free and equal in dignity and rights", as stated in article 1 of the Universal Declaration of Human Rights, must be able to exercise their rights as citizens and participate in decisions within their national States and the international community organized, in the interests of the entire community, in a spirit of solidarity that prevails over private interests. It is the idea that orginated with Aristotle that human beings are by nature a "zoon politikon" so that "to make policy" is to participate in community life, to govern for the general good, with private business perceived as a secondary, subordinate activity.

2. But with the mounting wave of neo-liberalism, the idea of the "minimal State" or "weakening of the State" is intended to minimize the role of politics and marginalize the citizen's function, giving precedence to the role that civil society must play vis-à-vis the State. Civil society is usually considered to embrace the various groups - professional, economic, political, cultural, associative, etc. (the so-called social actors) - that make up all human society, with different interests that converge at times and conflict at others. However, since the dominant neo-liberal discourse considers human society to be organized and conditioned by economic relations, among the social actors it assigns a fundamental role to entrepreneurs as managers of the economy and, more particularly, to transnational corporations as the main economic actors.

3. This ideology is reflected within the United Nations. The previous Secretary-General told the Davos Forum on 26 January 1995 that transnational corporations must be more closely involved in international decision-making. The current Secretary-General, for his part, in his July 1997 report on the restructuring of the United Nations, announced the intention to establish an inter-agency business liaison service to make arrangements with leading business organizations for continuing the dialogue between the representatives of business and the United Nations (document A/51/950, para. 216, Action 17 (c) and (d)). His report to the General Assembly on October 1997 (A/52/428) is founded on two basic ideas which the Secretary-General also voiced at the Davos Forum: 1) that there is universal consensus on the essential role of market forces in sustainable development, and 2) that the role of the State is changing in most of the developing world, from endeavouring to dominate economic life (our underlining) to creating the conditions that make sustainable development possible. It is not by chance that the consultant firm Price Waterhouse which advised Mrs. Thatcher on her privatization policy and is currently consultant to the giant oil company Exxon under the name PricewaterhouseCooper, following its merger with Coopers & Leybrand in July 1998, has for several years been consultant to the United Nations in Geneva.

4. This tendency to promote the role of the large private economic actors in human society to the detriment of democracy and grassroots participation - in other words, to favour the private interests of the richest over the general welfare - is shared to some extent by certain NGOs which invite transnationals to use their influence "to endeavour to halt human rights violations committed by States and armed opposition groups". How can Shell, for instance, pressure

the Government of Nigeria to respect human rights when Shell itself, in defence of its own oil interests, has supplied the logistics for the repression of that country's Ogoni people? It is like asking the executioner to look after his victim's health.

5. It is true that enterprises - and entrepreneurs - form part of civil society. But civil society has many other components: workers, peasant farmers, professionals, intellectuals and their respective organizations, political parties, grassroots movements in general and so on. However, the participation of these "many other components" in government decisions has been pared to a minimum: decision-making power, political power, has been largely confiscated by economic power which has its own negotiators, propagandists and ideological mouthpieces. The upshot is that everything is subordinated to the laws of the marketplace and to cost-benefit calculations: what is not profitable must be thrown out, with the result that ideas of human solidarity and public service are fading away.

6. It is therefore safe to say that the truly dominant components of civil society are massive capital, the means of communication it controls, intellectuals and the different social organizations in the service of the system, functioning as tools for economic domination, ideological hegemony and social control. The role of the State (the "minimal" State) is increasingly reduced to that of negotiator of economic power and instrument of social coercion. Human beings as citizens and protagonists of a democratic society are leaving the stage to human beings reduced to the status of economic subjects or objects. Human beings are no longer the "polis", the "zoon politikon"; they have become "executives", producers of goods and services, consumers or clients. And if they do not fit into any of those categories they are written off as superfluous.

Conclusions

7. The idea, then, is to determine how human beings, as "zoon politikon", can once more assume their rightful protagonistic role in society, because therein lies the essence of the human condition which, by its very nature, is social and political. The great challenge of our times is to subordinate economic power to social interests; that is, for the economy to be at the service of human beings and not the reverse. It is not easy to respond to this challenge. Transnational economic power not only dominates the economy; as well as subordinating national and international political elites, it has succeeded in imposing the hegemony of the neo-liberal ideology on all strata of society through industry-media conglomerates (mergers of large industries of all kinds with the communication industry) and with the collaboration of a large section of the "intelligentsia", which uses its scientific and cultural status the better to pass on the ideas of the dominant groups - enveloped in an aura of academic objectivity - to society as a whole.